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**[EXEMPT FROM FILING FEES  
PURSUANT TO GOVERNMENT  
CODE § 6103]**

8 Attorneys for Defendants  
9 CITY OF PALOS VERDES ESTATES and  
10 CHIEF OF POLICE JEFF KEPLEY

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA; WESTERN DIVISION**

13 CORY SPENCER, an individual;  
14 DIANA MILENA REED, an  
15 individual; and COASTAL  
16 PROTECTION RANGERS, INC., a  
17 California non-profit public benefit  
18 corporation,

19 Plaintiffs,

20 v.

21 LUNADA BAY BOYS; THE  
22 INDIVIDUAL MEMBERS OF  
23 THE LUNADA BAY BOYS,  
24 including but not limited to SANG  
25 LEE, BRANT BLAKEMAN,  
26 ALAN JOHNSTON aka JALIAN  
27 JOHNSTON, MICHAEL RAE  
28 PAPAYANS, ANGELO  
FERRARA, FRANK FERRARA,  
CHARLIE FERRARA and N.F.;  
CITY OF PALOS VERDES  
ESTATES; CHIEF OF POLICE  
JEFF KEPLEY, in his  
representative capacity; and DOES  
1-10,

Defendants.

Case No. 2:16-cv-02129-SJO-RAO

Assigned to District Judge: Hon. S.  
James Otero Courtroom: 10C

Assigned Discovery:  
Magistrate Judge: Hon. Rozella A. Oliver

**[EXEMPT FROM FILING FEES  
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**DEFENDANTS CITY OF PALOS  
VERDES ESTATES AND CHIEF OF  
POLICE JEFF KEPLEY'S  
OPPOSITION AND OBJECTION TO  
PLAINTIFFS' REQUEST FOR  
JUDICIAL NOTICE**

[Filed concurrently with Reply; Declaration  
of Christopher D. Glos; Response to  
Additional Material Facts; Evidentiary  
Objections]

Date: September 5, 2017  
Time: 10:00 a.m.  
Ctrm.: 10C; Hon. S. JAMES OTERO

Complaint Filed: March 29, 2016  
Trial: November 7, 2017

1 Defendants City of Palos Verdes Estates and Chief of Police Jeff Kepley  
2 (“City Defendants”) oppose and object to Plaintiffs’ Request for Judicial Notice  
3 (“RJN”). The City Defendants request the right “to be heard on the propriety of  
4 taking judicial notice and the nature of the fact[s] to be noticed.” Fed. R. Evid.  
5 201(e); *1-800-411-Pain Referral Service, LLC v. Otto*, 744 F.3d 1045, 1063 fn.13  
6 (8th Cir. 2014). If the Court declines to conduct a formal hearing, the City  
7 Defendants respectfully request that the Court look to Plaintiffs’ RJN and this  
8 opposition and objection in making its determination regarding judicial notice. *See*  
9 *Center for Biological Diversity, Inc. v. BP America Production Co.*, 704 F.3d 413,  
10 423 (5th Cir. 2013)—Fed. R. Evid. 201(b) does not require a formal hearing under  
11 all circumstances.

12 Plaintiffs’ Exhibits A and B are newspaper articles, which generally cannot  
13 be judicially noticed as sources to establish facts as indisputable. *See Cofield v.*  
14 *Alabama Pub. Serv. Comm’n*, 936 F.2d 512, 517 (11th Cir. 1991). Plaintiffs  
15 attempt to establish additional material facts by reference to these exhibits. *See*  
16 Dkt. No. 301, ¶¶ 152-153. Courts may take judicial notice of newspaper articles for  
17 certain limited purposes other than for the truth contained in those articles. *See,*  
18 *e.g., Voh Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960  
19 (9th Cir. 2010)—judicial notice taken of publications to indicate what was in the  
20 public realm at the time, but not to indicate whether contents of the articles were in  
21 fact true; *United States ex rel. Osheroff v. Humana Inc.*, 776 F.3d 805, 811 fn.4  
22 (11th Cir. 2015)—judicial notice taken of statements contained in documents, but  
23 not for deciding truth of those statements.

24 Because Plaintiffs fail to provide any information, legal authority, or other  
25 support for the RJN, the nature and purpose of the requested judicial notice cannot  
26 be ascertained. Therefore, the City Defendants respectfully request that the Court  
27 decline to exercise judicial notice of these newspaper articles in any capacity.

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1 With respect to Exhibits C and D, the court should deny Plaintiffs’ request  
2 for judicial notice, since the matters are not sufficiently related to the issues in  
3 question in this litigation. *See Hart v. Parks*, 450 F.3d 1059, 1063 fn.2 (9th Cir.  
4 2006)—denial of judicial notice request regarding commission report on Los  
5 Angeles Police Department in case involving whether Teamsters employed a “code  
6 of silence” following the theft of Oscar statuettes. The “code of silence” was  
7 “completely unrelated” to any LAPD code; *Great Basin Mine Watch v. Hankins*,  
8 456 F.3d 955, 975-976 (9th Cir. 2006). Exhibit C relates to Bureau of Justice  
9 incarceration statistics, which are not sufficiently related to the three Plaintiffs’  
10 claims against the City Defendants. Plaintiffs’ Complaint and allegations are  
11 completely unrelated to the incarceration statistics set forth in Exhibit C. *See* Dkt.  
12 No. 1.

13 Exhibit D is purportedly a copy of the Palos Verdes Homes Association’s  
14 (“PVHA”) Protective Restrictions. PVHA is a private entity, separate and distinct  
15 from the City Defendants. PVHA is not a party to this litigation, and the document  
16 attached as Exhibit D is also completely unrelated to Plaintiffs’ claims against the  
17 City Defendants. Exhibit D has also not been sufficiently authenticated. *See*  
18 *Majeda v. Olympic Packers, LLC, supra*, 310 F.3d at 639. Due to the lack of  
19 relevance to this litigation, the City Defendants request that the Court deny  
20 Plaintiffs’ request with respect to Exhibits C and D.

21 Based upon the foregoing, the City Defendants oppose and object to  
22 Plaintiffs’ RJN, and ask the Court to deny the RJN.

23 Dated: August 7, 2017

KUTAK ROCK LLP

24  
25 By: /s/ Christopher D. Glos

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CITY OF PALOS VERDES ESTATES  
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